

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
YORKSHIRE TOWERS COMPANY, L.P. and
YORKSHIRE TOWERS TENANTS ASSOCIATION,

Plaintiffs,

-against-

THE FEDERAL TRANSIT ADMINISTRATION,
THE METROPOLITAN TRANSPORTATION
AUTHORITY and THE METROPOLITAN
TRANSPORTATION AUTHORITY CAPITAL
CONSTRUCTION COMPANY,

Defendants.
-----X

YORKSHIRE TOWERS COMPANY, L.P. and
YORKSHIRE TOWERS TENANTS ASSOCIATION,

Plaintiffs,

-against-

UNITED STATES DEPARTMENT OF
TRANSPORTATION, RAY LAHOOD, in his capacity as
Secretary of the United States Department of
Transportation, THE FEDERAL TRANSIT
ADMINISTRATION, PETER M. ROGOFF, in his capacity
as administrator of the Federal Transit Administration, THE
METROPOLITAN TRANSPORTATION AUTHORITY,
JAY H. WALDER, in his capacity as Chairman of the
Metropolitan Transportation Authority, THE NEW YORK
CITY TRANSIT AUTHORITY, THOMAS F.
PRENDERGAST, JR., in his capacity as President of the
New York City Transit Authority and THE
METROPOLITAN TRANSPORTATION AUTHORITY
CAPITAL CONSTRUCTION COMPANY, MICHAEL
HORODNICEANU, in his capacity as President of the
Metropolitan Transportation Authority Capital Construction
Company,

Defendants.
-----X

Case No. 10-cv-8973 (TPG)

**PLAINTIFFS' NOTICE OF
MOTION FOR SECOND PRE-
TRIAL CONFERENCE UNDER
FED. R. CIV. P. 16 AND
RELATED RELIEF**

Case No. 11-cv-1058 (TPG)

RELATED CASE

PLEASE TAKE NOTICE that upon the accompanying Memorandum in Support, the Pleadings, the First Pre-trial Conference and all prior proceedings in the above-captioned related cases, Plaintiffs Yorkshire Towers Company, L.P. and Yorkshire Towers Tenants Association, will move this Court before the Honorable Thomas P. Griesa at the United States Courthouse, 500 Pearl Street, Courtroom 26B, New York, New York, on a date and time to be determined by the Court, for an order pursuant to Federal Rules of Civil Procedure, Rule 16:

- (1) Scheduling the Second Pre-Trial Conference to discuss, among other matters, the affirmative relief Plaintiffs intend to seek by motion;
- (2) Extending the Plaintiffs' time to respond to the motions to dismiss by the defendants federal and state officials and agencies (collectively the "Government Defendants") (First Case, ECF Nos. 24-25, Related Case, ECF Nos. 23-25) pending the production of:
 - (a) Each and every document that the Government Defendants relied on, or to which they referred, between Settlement Conference II on July 14 and III on August 24 to determine that the MTA's Residential Midblock Alternative remains the "preferable" alternative in comparison to the Reduced 5 design presented by Yorkshire Towers, or have the issue of whether the Government Defendants have fully and adequately studied, analyzed and balanced the environmental

benefits and adverse impacts of the Residential Midblock Alternative in comparison to the Reduced 5 design, resolved against them;

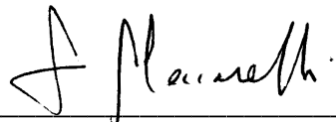
(b) Each and every document that the Government Defendants relied on, or to which they referred, between Settlement Conference II on July 14 and III on August 24, to determine that the construction schedule would be impacted beyond the FTA's publicly announced start date of February 2018, and the MTA's earlier stated goal of December 2016, or have this issue considered resolved against them; and

(3) Granting such other, further and different relief as is just and proper.

Dated: September 9, 2011
New York, New York

Respectfully Submitted,

CECCARELLI WEPRIN PLLC

By: 

Joseph J. Ceccarelli (JC-5329)
Erik J. Berglund (EB-1820)
Two Wall Street
New York, New York 10005-2008
(212) 227-4848
jceccarelli@cecwep.com
eberglund@cecwep.com

ANDERSON KILL & OLICK, P.C.
Jeffrey E. Glen (JG-8277)
Rene F. Hertzog (RH-9227)
1251 Avenue of the Americas
New York, New York 10020
(212) 278-1000
jglen@andersonkill.com
rhertzog@andersonkill.com

*Attorneys for Plaintiffs
Yorkshire Towers Company L.P.
and Yorkshire Towers Tenants
Association*

To: Preet Bharara
United States Attorney for the
Southern District of New York
By: Joseph Anthony Pantoja, Esq.
United States Attorney's Office, S.D.N.Y.
86 Chambers Street
New York, NY 10007
(212) 637-2200

*Attorneys for United States Department
of Transportation, Ray LaHood, in his
capacity as Secretary of the Department
of Transportation, the Federal Transit
Administration, and Peter M. Rogoff, in
his capacity as administrator of the
Federal Transit Administration*

Philip Elias Karmel, Esq.
Bryan Cave LLP
1290 Avenue of the Americas
New York, NY 10104
(212) 541-2000

*Attorneys in the Related Case
for Defendants Metropolitan
Transportation Authority, Jay Walder
in his capacity as Chairman of the
Metropolitan Transportation Authority,
The New York City Transit Authority,*

*Thomas F. Prendergast, JR., in his
capacity as President of the New York
City Transit Authority, The Metropolitan
Transportation Authority Capital
Construction Company and Michael
Horodniceanu, in his capacity as
President of the Metropolitan
Transportation Authority Capital
Construction Company*

Gordon Jay Johnson, Esq.
MTA Office of General Counsel
347 Madison Avenue, 9th Floor
New York, NY 10017
(212) 878-4633

*Attorneys in the First Case
for Defendants Metropolitan
Transportation Authority and The
Metropolitan Transportation Authority
Capital Construction Company*